

m/027/032
 Doug Jensen → Barn
 copy → file ✓
 msw
 7/14/04

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RECEIVED

DIV OF OIL GAS & MINING

UTAH STATE OFFICE			✓
STATE DIRECTORS OFFICE			
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L-128-LM

chc 7/21/04

Gentlemen:

I have enclosed a copy of the Decision appealed from, and prior related Decision dated March 8, 2004. A complete file concerning this matter is available in the Fillmore Field Office, and I assume it is available to you and will be forwarded to you as you consider this appeal.

1



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, Utah 84631



In Reply Refer to:
3809
(U-010)
UTU-070557

June 18, 2004

DEXTER ANDERSON
RED DOME INC
5865 W 200 S
FILLMORE UT 84631

Dear Mr. Anderson:

Enclosed is a copy of decision letter sent to Red Dome via certified mail on May 11, 2004. On June 15, 2004, it was returned to this office as unclaimed.

§3809.603 states that "Service is complete upon offer of the notification of order of the certified mail and is not incomplete because of refusal to accept".

The Post Office last notified you of the certified mail on June 9, 2004. Service is considered complete as of that date. Therefore, the appeal period ends on July 9, 2004.

If you have any questions, please feel free to call Sheri Wysong at (435) 743-3124.

Sincerely,

Sherry K. Hirst
Field Office Manager

Enclosures
Decision



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, Utah 84631



In Reply Refer to:
3800
(U-010)
UTU-070557

March 8, 2004

CERTIFIED MAIL #7003 2260 0005 6848 5837
RETURN RECEIPT REQUESTED

DEXTER ANDERSON
REPRESENTATIVE
RED DOME INC.
730 N 3900 W
FILLMORE UT 84631

Dear Mr. Anderson:

We received Red Dome's amended Plan of Operations (Plan) on February 17, 2004, and our review of the Plan has revealed that it meets the requirements of 43 CFR § 3809.401. As required by § 3809.411(c), we have published availability of the Plan on the Environmental Notification Bulletin Board and will accept public comment on the Plan until at least April 2, 2004. Should a finding of no significant impact be made, the Plan will be approved shortly after April 2, 2004, subject to changes or conditions that are necessary to meet the performance standards of § 3809.420 and to prevent unnecessary or undue degradation. Approval will also be subject to the submission to the Utah Division of Oil, Gas and Mining (UDOGM), a reclamation bond in an amount and form acceptable to both UDOGM and the BLM, after which event the interim financial guarantee currently held by the BLM will be released.

We also need to address the preamble to the Plan, in which it is stated:

"Red Dome Inc. does not waive any of its rights or claims to any of the acreage contained within the Red Dome Placer Mining Claims as described below or elsewhere and reserves the right to go upon any area within the claims to maintain the validity of the claims under the mining laws of the United States of America and the State of Utah, including discovery work, and annual assessment work as necessary."

The approval of the mine plan will not include approval of any exploration or mining activity outside the area defined within the mine plan. Any activity beyond casual use outside the approved Plan area must be preceded by the submission of either a Notice or an amended Plan and an approved financial guarantee for reclamation.

If you have any questions, please feel free to contact Sheri Wysong at (435) 743-3124.

Sincerely,


Glen Nebeker
Field Office Manager

cc: Tom Munson, UDOGM (M/027/032)



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, Utah 84631



In Reply Refer to:
3800
(U-010)
UTU-070557

May 11, 2004

CERTIFIED MAIL #7002 3150 0004 1699 4674
RETURN RECEIPT REQUESTED

DECISION

DEXTER ANDERSON

RED DOME INC.

5865 W 200 S

FILLMORE UT 84631

:

APPROVAL OF

PLAN OF OPERATIONS

:

:

:

Red Dome Inc.'s Plan of Operations to mine cinders at its quarry located in T. 21 S., R. 6 W., Sections 22, 23, 26 and 27 has been approved contingent upon the following conditions:

1. Red Dome must comply with the requirements set forth in the April 12, 2004 letter from the Utah Division of Oil, Gas and Mining (UDOGM) asking for information to complete the Large Mine Operation (LMO) application Red Dome has submitted to the agency.

2. Upon approval of the LMO, Red Dome must submit to UDOGM a reclamation bond in the amount UDOGM calculates. BLM will review UDOGM's reclamation cost estimate, and if BLM agrees the amount is adequate, the bond currently held by the BLM will be released to Red Dome upon submission of the replacement bond to UDOGM.

The approval is also subject to the following mitigations:

1. Topsoil will be stockpiled to the fullest extent possible. Salvaged topsoil will be spread over all disturbed areas where there are no rocky outcrops. If necessary, additional organic material will be brought in and added to the topsoil. A seed mix determined by the UDOGM will be drilled into the spread topsoil.

2. At the end of mine life, the operator will remove the seven power poles and line that are on public lands.

FILE COPY

If you do not agree with, and are adversely affected by, this decision, you have the right to request review by the Utah State Director (SD) of the BLM in accordance with 43 CFR 3809.800. If you exercise this right, your request, accompanied by a brief written statement explaining why we should change our decision and any documents that support your written statement, must be filed in writing within 30 days after you receive this decision. The envelope should be marked "State Director Review" and sent to the following address:

BUREAU OF LAND MANAGEMENT
UTAH STATE OFFICE
PO BOX 45155
SLC UT 84145-0155

You should include a telephone or fax number by which the SD can contact you. If the SD does not make a decision within 21 days on whether to accept your request for review, you should consider your request declined, and you may appeal this decision to the Office of Hearings and Appeals (OHA). You may also appeal to OHA if the SD's decision is adverse to you. You must file a notice of appeal to this office within 30 calendar days of the date you receive the SD's decision or decision not to review.

You may also bypass State Director review, and appeal directly to OHA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the Fillmore Field Office within 30 days of receipt of this decision. You have the burden of showing that the decision appealed from is in error.

If you wish to file a petition to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals (Board), the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Board, and to the appropriate Office of the Solicitor (see 43 CFR 4.412) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,

(3) The likelihood of immediate and irreparable harm if the stay is not granted, and

(4) Whether the public interest favors granting the stay.

As mandated in 43 CFR 3809.808 this decision will remain in full force and effect during review and appeal unless a written request for a stay is granted.

Sherry K. Hirst

Enclosure:

Form 1842-1

cc: Tom Munson, UDOGM (M/027/032)

SWysong:tf



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, Utah 84631



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June 18, 2004

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RED DOME INC
5865 W 200 S
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Sherry K. Hirst
Field Office Manager

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